

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: October 6, 2003
)	
James B. Walker)	DOCKET NO.: 03F-105
Member)	
Public Charter School Board)	
3707 Bangor Street, SE)	
Washington, DC 20020)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), James B. Walker, Member, Public Charter School Board (Board), failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notices of Hearing, Statements of Violations and Orders of Appearance dated August 8, 2003 and September 3, 2003, OCF ordered James B. Walker (hereinafter respondent), to appear at scheduled hearings on August 20, 2003 and September 15, 2003 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On September 15, 2003, respondent appeared at the scheduled hearing and testified that his term on the Board expired in December 2002, but he held over until a successor was later appointed. Respondent stated that he experienced an identical situation last year concerning the filing of his Financial Disclosure Statement (FDS). Respondent stated he received and executed his FDS in April of 2002 and mailed it

shortly thereafter to OCF by regular mail. Respondent further stated he was ordered to appear at a hearing for failing to comply with the statute. Respondent asserted that he brought in a copy of his FDS, which he requested OCF's Bill Sanford to initial the form as evidence of its receipt. Respondent stated that on or around six (6) months later, he received an Order vacating the Notice of Hearing, Statement of Violations and Order of Appearance. Respondent further stated in April of 2003, the same sequence of events followed. Respondent asserted he received an FDS in April and mailed it to OCF on or around the end of the month by regular mail. Respondent asserted that when he received a delinquent notice from OCF, he thought it was another mistake. OCF's records do not reflect receipt of an FDS from respondent. Respondent filed a fully executed Financial Disclosure Statement with OCF at the conclusion of the hearing.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent's term on the Board expired in December 2002, but he held over as a member until a successor was appointed.
2. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
3. Respondent filed the required Financial Disclosure Statement on September 15, 2003.
4. Respondent asserted he mailed a Financial Disclosure Statement to OCF on or around the end of April 2003 by regular mail.
5. OCF has no record of receipt of respondent's FDS mailed on or around the end of April 2003.
6. Respondent has no history of prior filing delinquencies.
7. Respondent's explanation for the filing delinquency is credible in light of the circumstances surrounding his previous year's filing when he believed he timely mailed an FDS report to OCF in compliance with the filing requirements.
8. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.